

# CITY COUNCIL REPORT



MEETING DATE: June 21, 2005

ITEM NO. 4

GOAL: Coordinate Planning to Balance Infrastructure

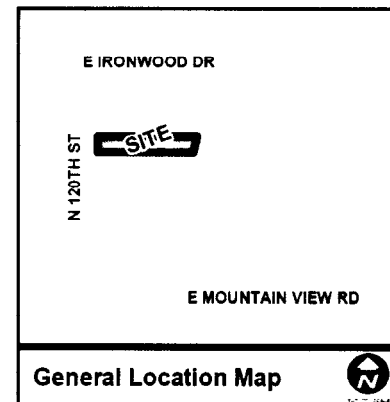
## SUBJECT

**GLO Abandonment on 12009 E Ironwood - 3-AB-2005**

## REQUEST

Request to consider the following:

1. Abandon the 33 foot wide GLO Easement along the southern property boundary.
2. Abandon 3 feet of GLO easement along the western property boundary, full property frontage.
3. Adopt Resolution No. 6678 vacating and abandoning a public right-of-way.



## OWNER/APPLICANT CONTACT

Brent Langbehn  
480-225-4040

## LOCATION

12009 E Ironwood Dr

## BACKGROUND

### Background.

The subject 33 feet GLO patent roadway and public utility easements were dedicated on the original GLO patent deed in 1954. The GLO easement is located along the southern property boundary and the western property boundary within the 120<sup>th</sup> Street alignment.

### General Land Office Patent Easements (general information).

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with 33 feet (or sometimes 50 feet) roadway and public utility easements typically "as near as practicable to the exterior boundaries".
- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e. lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per our circulation plans. The city's transportation plan establishes a street system to replace the grid pattern created by the GLO easements.
- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to insure access to any other lot, may be requested to be abandoned.
- On 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted

Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all right-of-ways, alleys, and roadway easements. The City Attorney's office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.

- On March 1, 2005, outside council gave a presentation to the City Council regarding GLO federal patent easements. The outside council confirmed that GLO patent easements are no different than any other right-of-way, and any easement owned by the City and can be abandoned. The council members expressed confidence in the existing policy of evaluating each situation on a case-by-case basis.

The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the 33 feet GLO easements are unimproved along the southern property boundary, and there is 30 feet of improvement within the 120<sup>th</sup> Street alignment.

**Zoning.**

The site is zoned R1-43, Single Family Residential zoning district.

**Context.**

This lot is not located within a subdivision and is described by metes and bounds and fronted along 120<sup>th</sup> street. The surrounding property is also zoned R1-43. There have been several abandonment requests for GLO easements in this area.

**APPLICANT'S  
PROPOSAL****Goal/Purpose of Request.**

This request is to abandon the entire 33 feet of GLO roadway and public utility easement along the southern boundary, and a 3-foot wide portion of the easement along the western property frontage (120<sup>th</sup> Street). The existing GLO easements serve no purpose for access and there are no public utilities within the easements.

**Community Impact.**

The surrounding properties all have existing access. There is no significant impact with the abandonment request. Walls, structures, and buildings historically exist within, over, and around the GLO easements in this area.

**IMPACT ANALYSIS****Departmental Responses:**

City Department/Division participants concur with this abandonment request.

**Community Involvement:**

The City installed signage at the roadway alignments alerting neighbors in the area of the request. Staff has received no input from the public regarding this request.

**OTHER BOARDS AND  
COMMISSIONS****Planning Commission.**

On April 27, 2005, the Planning Commission heard this case on the expedited agenda and recommended for approval, 5-0.

**STAFF****Recommended Approach:**

Staff recommends approval.

**RESPONSIBLE DEPT (S)** Planning and Development Services Department

**APPROVED BY**

Date \_\_\_\_\_

Date \_\_\_\_\_

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Right-of-Way and Easements
5. Area Trails Plan
6. GLO Easement Abandonment's 1999-2004
7. City Notification Map
8. Resolution No. 6678
9. April 27, 2005 Planning Commission Minutes

# **CASE 3-AB-2005**

## **Department Issues Checklist**

### **Transportation**

☒ Support

### **Trails**

☒ Support

### **Adjacent Property Owner Notification**

☒ No input from the public received

### **Public Utilities**

☒ Support

### **Emergency/Municipal Services**

☒ Support

### **Water/Sewer Services**

☒ Support

### **Drainage**

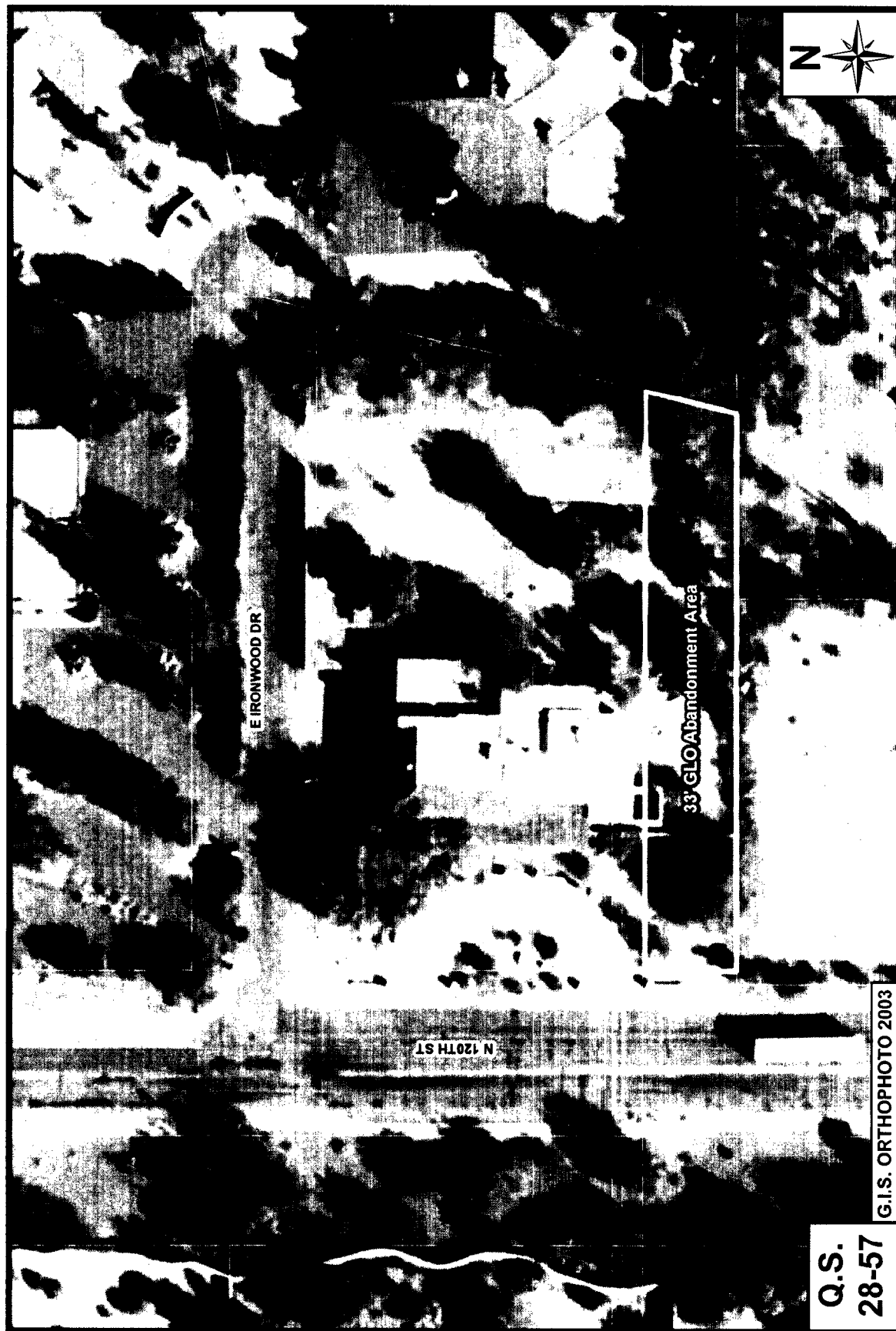
☒ Support



GLO Abandonment on 12009 E Ironwood

3-AB-2005

ATTACHMENT #2



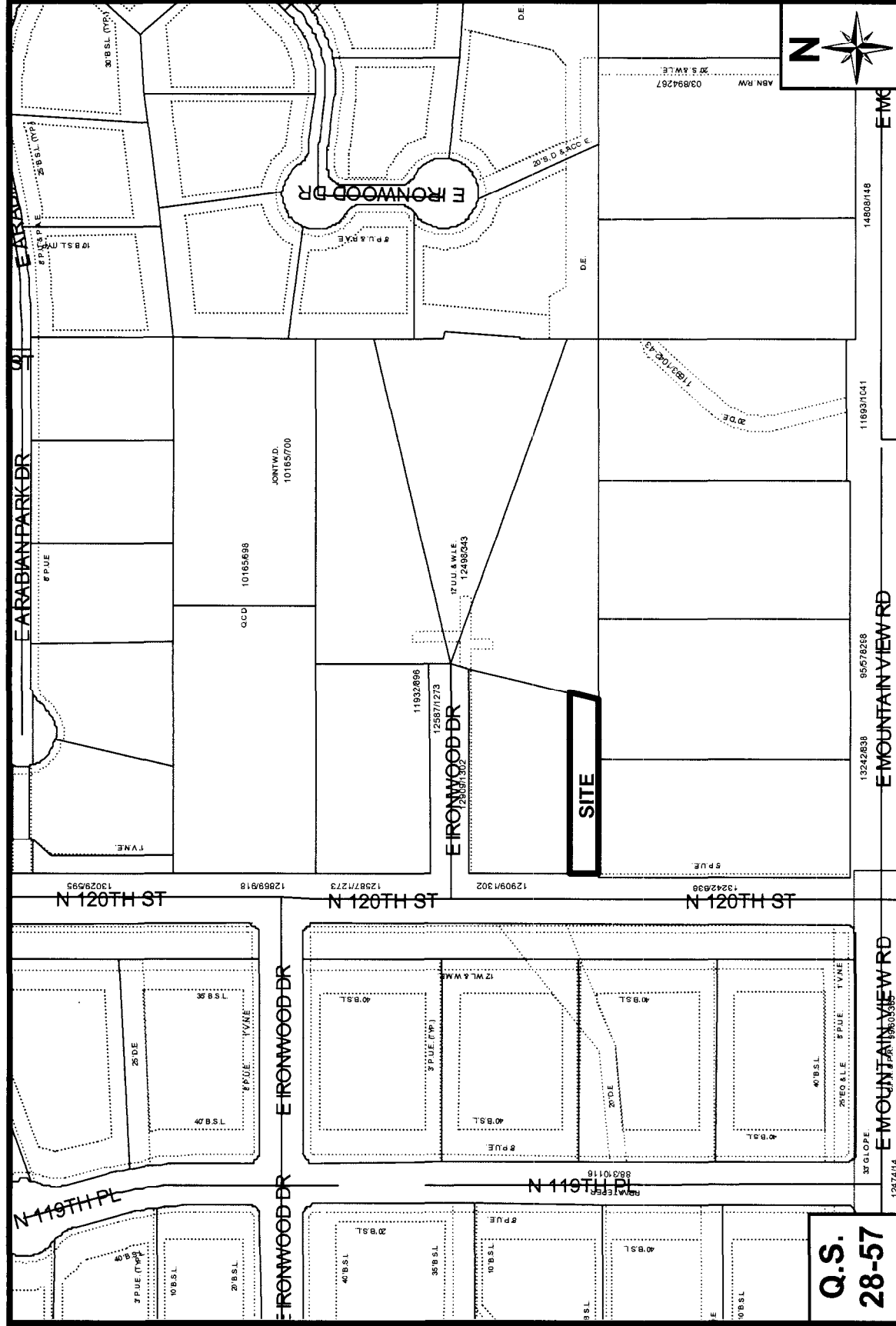
Q.S.  
28-57

G.I.S. ORTHOPHOTO 2003

3-AB-2005

GLO Abandonment on 12009 E Ironwood

ATTACHMENT #3



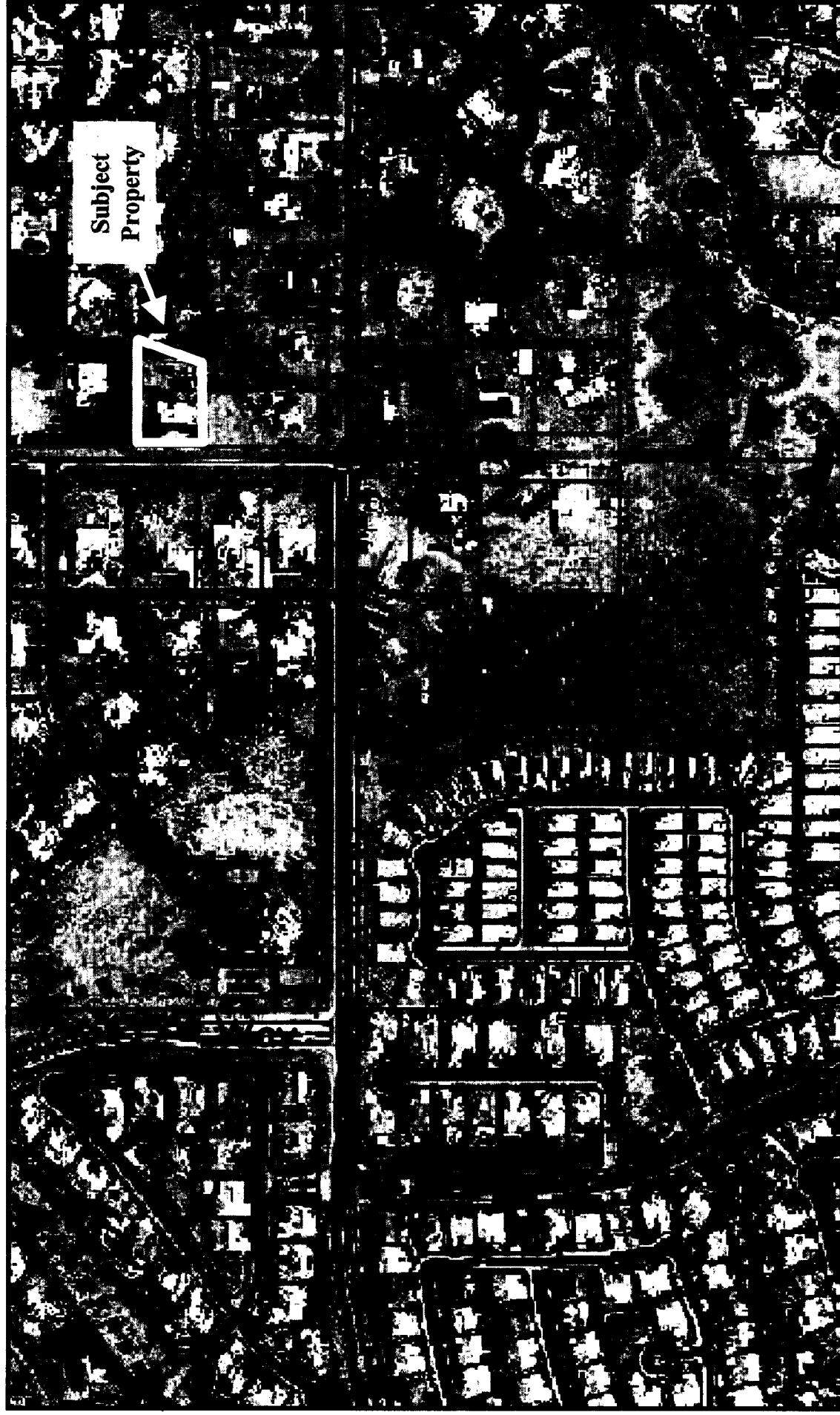
**3-AB-2005**

**GLO Abandonment on 12009 E Ironwood**

Easements & Right-of-Way

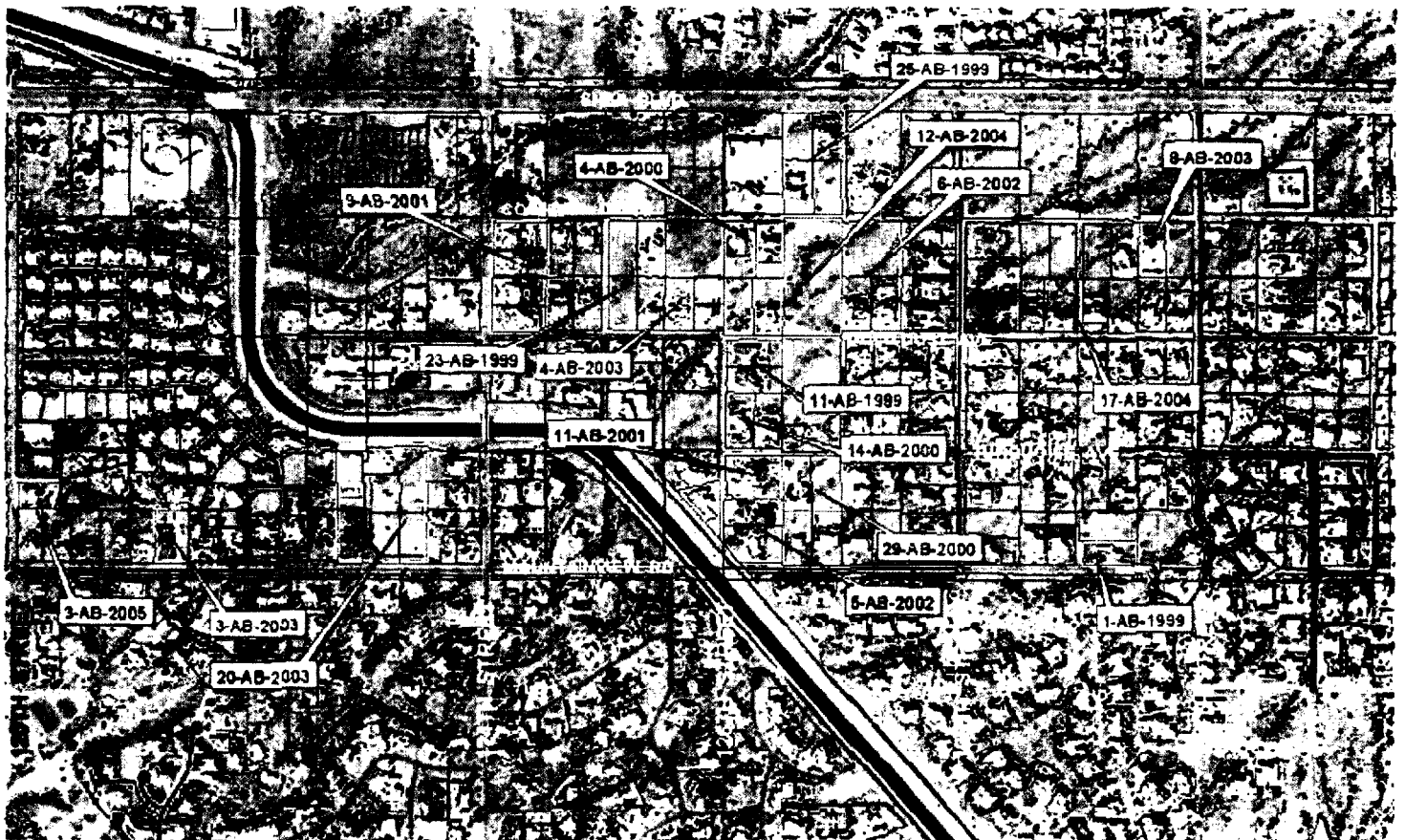
**ATTACHMENT #4**

# Master Planned Trails - 120<sup>th</sup> and Mountain View



■■■■■ Master Planned Trails	Not to Scale	N↑
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# GLO Easement Abandonments 1999-2004



GLO easement abandonment cases

GLO administrative easement releases



Source: City of Scottsdale Planning & Development Services. Printed 4/21/2005

# City Notifications – Mailing List Selection Map



## Map Legend:



Site Boundary



Properties within 750-feet

## Additional Notifications:

- Interested Parties
- Neighbors South of Shea
- NESPOA

**GLO Abandonment on 12009 E  
Ironwood**

**3-AB-2005**

ATTACHMENT #7

**RESOLUTION NO. 6678**

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE,  
MARICOPA COUNTY, ARIZONA, ABANDONING A PORTION OF THE  
PUBLIC RIGHT-OF-WAY FOR TURQUOISE AVENUE EAST OF 120<sup>TH</sup>  
STREET AND FOR 120<sup>TH</sup> STREET NORTH OF TURQUOISE AVENUE.

A. A.R.S. Sec. 28-7201, et seq. provide that a city may dispose of a roadway or portion thereof when said property or portion thereof is no longer necessary for public use.

B. After notice to the public, hearings have been held before the Planning Commission and Council of the City of Scottsdale ("City") on the proposed abandonment of the street right-of-way as described on Exhibit "A" attached hereto (the "Abandonment Right-of-Way").

C. The City Council finds th the Abandonment Right-of-Way is no longer necessary for public use as a roadway.

D. The City Council finds that consideration and other public benefit commensurate with the value of the property, giving due consideration to its degree of fragmentation and marketability, will be provided to the City by the owner of the abutting property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona, as follows:

1. Abandonment. Subject to the reservations below, the Abandonment Right-of-Way is abandoned as public street right-of-way.

2. Reservations. All of the following interests are reserved to City and excluded from this abandonment:

2.1 A non-vehicular access easement upon the west one foot of the Abandonment Right-of-Way.

2.2 Any N.V.A.E. or other non-vehicular access easement or covenant in favor of the City that may already affect the Abandonment Right-of-Way prior to this resolution.

2.3 Any N.A.O.S. or other open space easement or covenant in favor of the City that may already affect the Abandonment Right-of-Way prior to this resolution.

2.4 An easement for all existing utilities.

**ATTACHMENT 8**

2.5 Such rights and interests, if any, as are required to be reserved by A.R.S. Sec. 28-7210 and A.R.S. Sec. 28-7215.

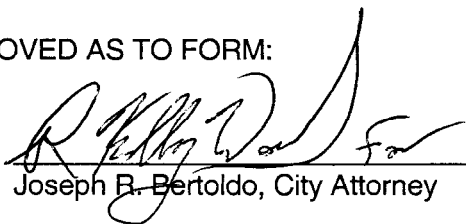
PASSED AND ADOPTED by the Council of the City of Scottsdale this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Mary Manross, Mayor

ATTEST:

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

By:   
Joseph R. Bertoldo, City Attorney

LEGAL DESCRIPTION TO ABANDON THE SOUTH 33 FEET, FEDERAL PATENT EASEMENT (DOCKET 1472, PAGE 384) AND 3.00 FEET ABUTTING THE EAST LINE OF 120 TH. STREET. SOUTH OF IRONWOOD DR.

THE SOUTH 33 FEET OF THE FOLLOWING;

THAT PART OF LOT 49 (SAID LOT KNOWN AS THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER) OF SECTION 26, TOWNSHIP 3 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER BASE MERIDIAN, MARICOPA COUNTY ARIZONA, DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 49,  
THENCE N89°59'54"E, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 233.30 FEET TO A POINT WHICH LIES S89°59'54"W, A DISTANCE OF 427.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 49,  
THENCE N13°44'16"E, A DISTANCE OF 176.73 FEET  
THENCE S89°58'40"W, A DISTANCE OF 275.00 FEET TO A POINT ON THE WEST LINE OF SAID LOT 49,  
THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 49 A DISTANCE OF 171.57 FEET TO THE POINT OF BEGINNING.

ALSO

THE EAST 3.00 FEET OF THE WEST 33.00 FEET OF THE SOUTH 171.57 FEET OF SAID LOT 49,  
EXCEPTING THE SOUTH 20 FEET OF IRONWOOD DR. AND DOCKET 1472, PAGE 384,

EXCEPT ALL COAL, OIL, GAS, AND OTHER MINERAL DEPOSITS AND ALL URANIUM, THORIUM AND ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE, AS RESERVED IN PATENT FROM UNITED STATES OF AMERICA

SEE ATTACHED EXHIBIT "A"

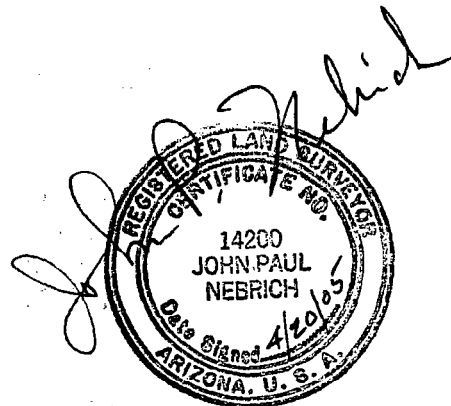


Exhibit "A"  
Page 1 of 2

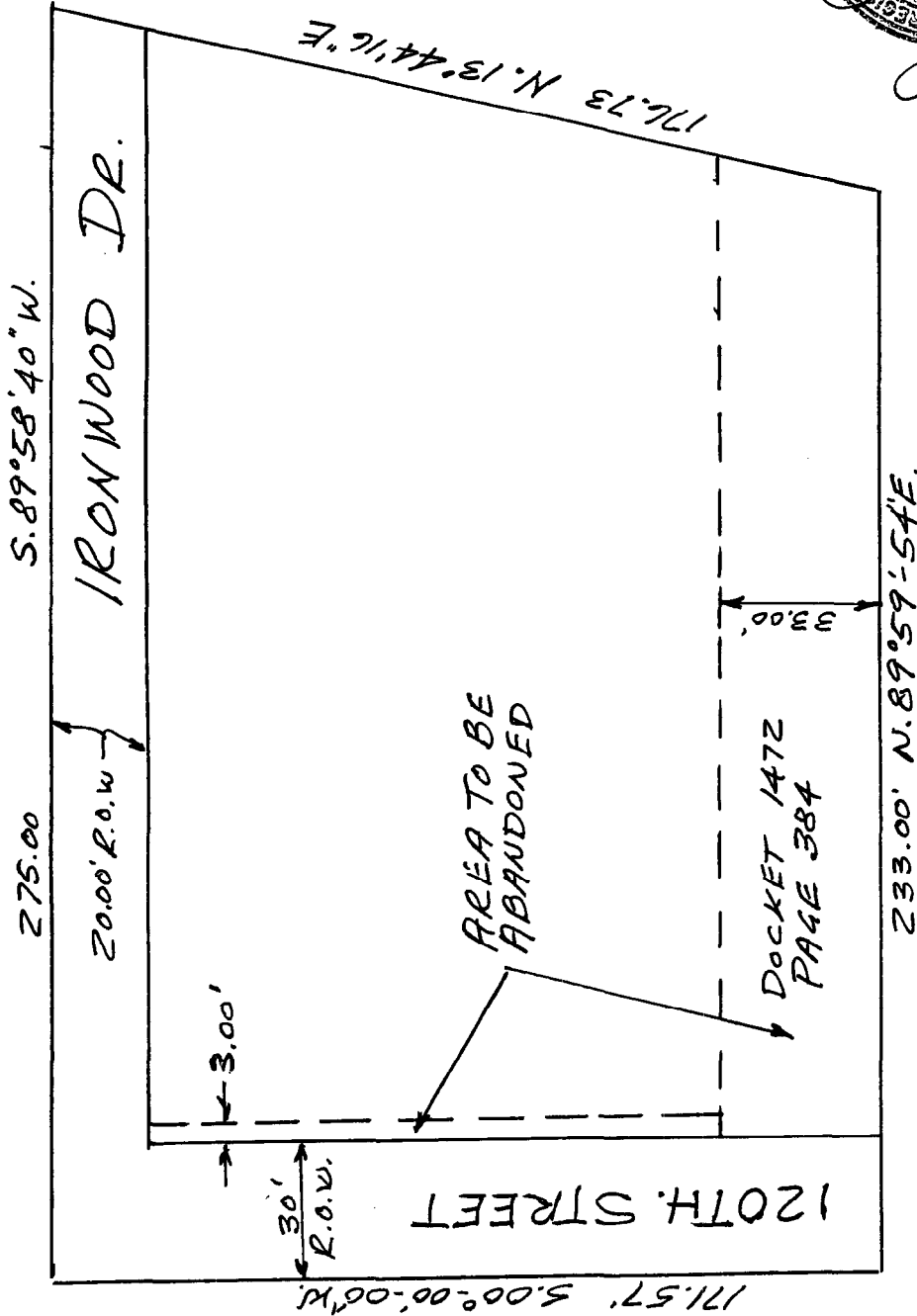
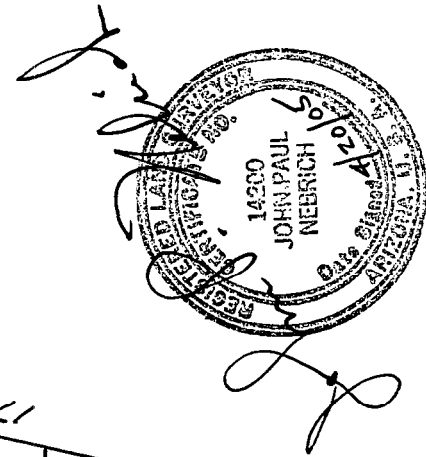


EXHIBIT "A"

Exhibit "A" page 2 of 2

2-UP-2005, (Raintree Multi Use) request by owner for a conditional use permit for internalized community storage on a 4.48 +/- acre parcel located at 7227 E Williams Drive with Highway Commercial District (C-3) zoning.

4-UP-2005, (Zipps @ Centennial Marketplace) request by owner for a conditional use permit for sales of alcoholic beverages at a proposed restaurant in a future shopping center located at 14148 N 100th Street with Planned Community Development District, Planned Neighborhood Center (PCD PNC) zoning.

3-AB-2005 (GLO Abandonment on 12009 E Ironwood) request by owner to abandon the General Land Office patent easement on the south side of the property located at 120009 E Ironwood.

Mr. Jones confirmed that each of the uses meets the criteria.

Chairman Gulino reported that a letter had been received on item 7, 3-AB-2005 from Mr. Leon Spiro, OPPOSING THIS REQUEST. MR. SPIRO is not opposed to the City relinquishing their interest in GLOs, but he feels there are other rights that the City does not legally have the authority to relinquish, and he feels that this constitutes a taking of private property rights.

**COMMISSIONER SCHWARTZ MOVED TO FORWARD TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL CASE 2-UP-2005 AND CASE 4-UP-2005 IN THAT THEY MEET THE USE PERMIT CRITERIA AND CASE 3-AB-2005. THE MOTION WAS SECONDED BY COMMISSIONER BARNETT AND PASSED UNANIMOUSLY.**

#### **ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 5:22 p.m.